

§710.2

the places within the provisions of paragraph (41) of section 40102 of Title 49 of the United States Code, any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (1) and (37), respectively, of section 40102 of Title 49 of the United States Code, and any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (section 1903(b) of Title 46 App. of the United States Code).

United States National Authority (USNA). Means the Department of State serving as the national focal point for the effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention and implementing the provisions of the Chemical Weapons Convention Implementation Act of 1998 in coordination with an interagency group designated by the President consisting of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, the Attorney General, and the heads of other agencies considered necessary or advisable by the President, or their designees. The Secretary of State is the Director of the USNA.

Unscheduled chemical. Means a chemical that is not contained in Schedule 1, Schedule 2, or Schedule 3 (see Supplements no. 1 to parts 712 through 714 of the CWCR).

Unscheduled Discrete Organic Chemical (UDOC). Means any “discrete organic chemical” that is not contained in the Schedules of Chemicals (see Supplements no. 1 to parts 712 through 714 of the CWCR) and subject to the declaration requirements of part 715 of the CWCR. Unscheduled discrete organic chemicals subject to declaration under the CWCR are those produced by synthesis that are isolated for use or sale as a specific end-product.

You. The term “you” or “your” means any person (see also definition of “person”). With regard to the declaration and reporting requirements of the CWCR, “you” refers to persons that have an obligation to report certain activities under the provisions of the CWCR.

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15 CFR Ch. VII (1–1–11 Edition)

§ 710.2 Scope of the CWCR.

The Chemical Weapons Convention Regulations (parts 710 through 729 of this subchapter), or CWCR, implement certain obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as the CWC or Convention.

(a) *Persons and facilities subject to the CWCR.* (1) The CWCR apply to all persons and facilities located in the United States, except the following U.S. Government facilities:

- (i) Department of Defense facilities;
- (ii) Department of Energy facilities; and
- (iii) Facilities of other U.S. Government agencies that notify the USNA of their decision to be excluded from the CWCR.

(2) For purposes of the CWCR, “United States Government facilities” are those facilities owned and operated by a U.S. Government agency (including those operated by contractors to the agency), and those facilities leased to and operated by a U.S. Government agency (including those operated by contractors to the agency). “United States Government facilities” do not include facilities owned by a U.S. Government agency and leased to a private company or other entity such that the private company or entity may independently decide for what purposes to use the facilities.

(b) *Activities subject to the CWCR.* The activities subject to the CWCR (parts 710 through 729 of this subchapter) are activities, including production, processing, consumption, exports and imports, involving chemicals further described in parts 712 through 715 of the CWCR. These do not include activities involving inorganic chemicals other than those listed in the Schedules of Chemicals, or other specifically exempted unscheduled discrete organic chemicals.

§ 710.3 Purposes of the Convention and CWCR.

(a) *Purposes of the Convention.* (1) The Convention imposes upon the United States, as a State Party, certain declaration, inspection, and other obligations. In addition, the United States

and other States Parties to the Convention undertake never under any circumstances to:

(i) Develop, produce, otherwise acquire, stockpile, or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone;

(ii) Use chemical weapons;

(iii) Engage in any military preparations to use chemical weapons; or

(iv) Assist, encourage or induce, in any way, anyone to engage in any activity prohibited by the Convention.

(2) One objective of the Convention is to assure States Parties that lawful activities of chemical producers and users are not converted to unlawful activities related to chemical weapons. To achieve this objective and to give States Parties a mechanism to verify compliance, the Convention requires the United States and all other States Parties to submit declarations concerning chemical production, consumption, processing and other activities, and to permit international inspections within their borders.

(b) *Purposes of the Chemical Weapons Convention Regulations.* To fulfill the United States' obligations under the Convention, the CWCR (parts 710 through 729 of this subchapter) prohibit certain activities, and compel the submission of information from all facilities in the United States, except for Department of Defense and Department of Energy facilities and facilities of other U.S. Government agencies that notify the USNA of their decision to be excluded from the CWCR on activities, including exports and imports of scheduled chemicals and certain information regarding unscheduled discrete organic chemicals as described in parts 712 through 715 of the CWCR. U.S. Government facilities are those owned by or leased to the U.S. Government, including facilities that are contractor-operated. The CWCR also require access for on-site inspections and monitoring by the OPCW, as described in parts 716 and 717 of the CWCR.

§ 710.4 Overview of scheduled chemicals and examples of affected industries.

The following provides examples of the types of industries that may be affected by the CWCR (parts 710 through

729 of this subchapter). These examples are not exhaustive, and you should refer to parts 712 through 715 of the CWCR to determine your obligations.

(a) Schedule 1 chemicals are listed in supplement no. 1 to part 712 of the CWCR. Schedule 1 chemicals have little or no use in industrial and agricultural industries, but may have limited use for research, pharmaceutical, medical, public health, or protective purposes.

(b) Schedule 2 chemicals are listed in supplement no. 1 to part 713 of the CWCR. Although Schedule 2 chemicals may be useful in the production of chemical weapons, they also have legitimate uses in areas such as:

(1) Flame retardant additives and research;

(2) Dye and photographic industries (e.g., printing ink, ball point pen fluids, copy mediums, paints, etc.);

(3) Medical and pharmaceutical preparation (e.g., anticholinergics, arsenicals, tranquilizer preparations);

(4) Metal plating preparations;

(5) Epoxy resins; and

(6) Insecticides, herbicides, fungicides, defoliants, and rodenticides.

(c) Schedule 3 chemicals are listed in supplement no. 1 to part 714 of the CWCR. Although Schedule 3 chemicals may be useful in the production of chemical weapons, they also have legitimate uses in areas such as:

(1) The production of:

(i) Resins;

(ii) Plastics;

(iii) Pharmaceuticals;

(iv) Pesticides;

(v) Batteries;

(vi) Cyanic acid;

(vii) Toiletries, including perfumes and scents;

(viii) Organic phosphate esters (e.g., hydraulic fluids, flame retardants, surfactants, and sequestering agents); and

(2) Leather tannery and finishing supplies.

(d) Unscheduled discrete organic chemicals are used in a wide variety of commercial industries, and include acetone, benzoyl peroxide and propylene glycol.